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IN THE
COURT OF APPEALS OF INDIANA

IN THE MATTER OF THE TERMINATION OF THE PARENT-CHILD RELATIONSHIP OF A.U.J., R.L.J., and J.M.L., Minor Children,	)	
and	)	
ALICE MARIE BURON,	)	
Appellant-Respondent,	)	
vs.	)	No. 71A03-0702-JV-93
DEPARTMENT OF CHILD SERVICES,	)	
Appellee-Petitioner.	)	

APPEAL FROM THE ST. JOSEPH PROBATE COURT
The Honorable Peter J. Nemeth, Judge
Cause Nos. 71J01-0512-JT-123, 71J01-0512-JT-124, and 71J01-0512-JT-128

October 19, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

CRONE, Judge

Case Summary

Alice Marie Buron ("Mother") challenges the trial court orders terminating her parental relationship with her three minor children. We affirm.

Issue

The sole issue before us is whether the termination orders are clearly erroneous.

Facts and Procedural History

The facts most favorable to the termination orders indicate that in 2003, the St. Joseph County Department of Child Services ("DCS") twice was contacted to investigate allegations regarding Mother. DCS determined that she was living in deplorable conditions with her children. Neglect was established, and home-based services were provided for Mother upon her agreement to relocate.

In January 2004, only two weeks after the second relocation, the South Bend Police Department contacted DCS to report that Mother had entered a homeless shelter with her two children, A.U.J. and R.L.J., then two years old and two months old, respectively. Shelter officials had reported to police that Mother had yanked A.U.J.'s arm and threatened that if someone did not help her she was going to "kill that …. [b]itch." Tr. at 10. Upon this third report, Mother was taken to a local mental health facility, and the two children were detained for foster placement. DCS arranged supervised visitation and attempted to place the children with Mother's relatives. However, Mother informed DCS that her relatives were unsuitable due to drug use and drug dealing. DCS therefore determined that foster care was the only viable option for the children. On March 31, 2004, the trial court determined that A.U.J. and R.L.J. were children in need of services ("CHINS") and placed them with a foster family.

On May 4, 2004, the court entered disposition decrees for both A.U.J. and R.L.J., and Mother was ordered to participate in services and referrals for the purpose of achieving reunification. The decrees ordered that Mother: (1) participate in individual counseling; (2) visit regularly with her children; (3) cooperate with home-based services; (4) complete parenting classes; (5) complete a parenting assessment and follow all recommendations; (6) complete a psychological evaluation and follow all recommendations; (7) maintain stable housing; (8) remain drug-free; and (9) maintain consistent contact with DCS. Mother's DCS caseworker made sure Mother was fully aware that reunification with her children would be dependent upon her cooperation with and participation in the above services.

Five months later, Mother gave birth to J.M.L. She admitted to her DCS caseworker that she had used marijuana during the pregnancy, and at birth, J.M.L. tested positive for marijuana. On January 12, 2005, the court declared J.M.L. a CHINS and, on February 23, the court issued a disposition order substantially similar to those issued for the other children. DCS initially attempted to supervise J.M.L. as an in-home CHINS placement. However, on March 11, 2005, Mother unexpectedly left the state with her boyfriend, Robert Liszewski. As a result, five-month-old J.M.L., who had been left with Mother's relative, was placed in foster care with his siblings pursuant to the court's emergency modification order. Six weeks later, Mother notified her DCS caseworker of her whereabouts. She said that she left Indiana to start a new life.

During the next sixteen months, Mother made no contact with DCS, and her exact whereabouts were unknown. She later reported that she had spent time in Texas and Florida. At some point, she married Liszewski, and the two supported themselves by panhandling for

local ministries. She eventually had her marriage annulled and married John Buron. She had no contact with the children during the time she was out of the state, and DCS established a permanency plan in which the foster family would adopt the three children.

On February 28, 2006, DCS filed petitions to terminate Mother's parental rights. Mother returned to Indiana in October 2006, and the matter was set for hearing on February 9, 2007. In the interim, Mother had no contact with the children. The court issued orders on February 16, 2007, terminating Mother's parental rights to A.U.J., R.L.J., and J.M.L. This appeal ensued. Additional facts will be provided as necessary.

Discussion and Decision

Mother contends that the trial court erred when it terminated her parental rights. In *Bester v. Lake County Office of Family & Children*, 839 N.E.2d 143 (Ind. 2005), our supreme court stated,

> The Fourteenth Amendment to the United States Constitution protects the traditional right of parents to establish a home and raise their children. A parent's interest in the care, custody, and control of his or her children is perhaps the oldest of the fundamental liberty interests. Indeed the parent-child relationship is one of the most valued relationships in our culture. We recognize of course that parental interests are not absolute and must be subordinated to the child's interests in determining the proper disposition of a petition to terminate parental rights. Thus, parental rights may be terminated when the parents are unable or unwilling to meet their parental responsibilities.

Id. at 147 (citations, quotation marks, and alteration omitted). In recognition of the seriousness with which we address parental termination cases, Indiana has adopted a clear and convincing evidence standard. *Castro v. State Office of Family & Children*, 842 N.E.2d 367, 377 (Ind. Ct. App. 2006), *trans. denied*.

When reviewing a trial court's order terminating a parent-child relationship, we will not set it aside unless it is clearly erroneous. *Id*. at 372. We will neither reweigh evidence nor judge witness credibility. *In re A.I.*, 825 N.E.2d 798, 805 (Ind. Ct. App. 2004), *trans. denied*. Rather, we will consider only the evidence and inferences most favorable to the judgment. *Id*.

To obtain a termination of the parent-child relationship, DCS must establish that

> (A) one (1) of the following exists:
>
> (i) the child has been removed from the parent for at least six (6) months under a dispositional decree;
>
> (ii) a court has entered a finding under IC 31-34-21-5.6 that reasonable efforts for family preservation or reunification are not required, including a description of the court's finding, the date of the finding, and the manner in which the finding was made; or
>
> (iii) after July 1, 1999, the child has been removed from the parent and has been under the supervision of a county office of family and children for at least fifteen (15) months of the most recent twenty-two (22) months;
>
> (B) there is a reasonable probability that:
>
> (i) the conditions that resulted in the child's removal or the reasons for placement outside the home of the parents will not be remedied; or
>
> (ii) the continuation of the parent-child relationship poses a threat to the well-being of the child;
>
> (C) termination is in the best interests of the child; and
>
> (D) there is a satisfactory plan for the care and treatment of the child.

Ind. Code § 31-35-2-4(b)(2). Mother fails even to mention the termination statute or its elements in her brief. Such failure to put forth a cogent argument constitutes waiver. *Wenzel v. Hopper & Galliher, P.C.*, 830 N.E.2d 996, 1004 (Ind. Ct. App. 2005), *trans denied*; s*ee also* Ind. Appellate Rule 46(A)(8)(a) ("The argument must contain the contentions of the appellant on the issues presented, supported by cogent reasoning. Each contention must be supported by citations to the authorities, *statutes*, and the Appendix or parts of the Record on

Appeal relied on, in accordance with Rule 22.") (emphasis added). Waiver notwithstanding, we will address the only argument we can discern.

Mother appears to contend that the trial court erred in concluding that a reasonable probability exists that the conditions that resulted in the removal of her children would not be remedied. In making such a determination, a trial court must "evaluate the parent's habitual patterns of conduct to determine the probability of future neglect or deprivation of the child." *Prince v. Dep't of Child Servs.*, 861 N.E.2d 1223, 1229 (Ind. Ct. App. 2007) (citation and quotation marks omitted). Thus, a termination order may be based not only upon conditions that led to the initial removal of the children, but also upon those bases that resulted in the continued placement outside the home. *In re A.I.*, 825 N.E.2d at 806. The trial court must also take into consideration evidence of conditions that have changed in the interim between the children's removal and the termination proceedings. *Prince*, 861 N.E2d at 1229. In making its determination as to any change, the court may properly consider the parent's response to services offered by DCS. *Id*.

Here, the trial court ordered Mother to participate in services specifically designed to remedy the conditions that led to the children's removal. Among those remedial directives, Mother completed only the parenting assessment and the parenting classes. She failed to maintain a stable residence, failed to remain drug-free, failed to maintain contact with DCS, failed to visit the children regularly, and failed to produce evidence that she had participated in individual counseling. "A trial court need not wait until children are irreversibly influenced by a deficient lifestyle such that their physical, mental, and social growth are permanently impaired before terminating the parent-child relationship." *In re D.L.*, 814

N.E.2d 1022, 1027 (Ind. Ct. App. 2004) (citation omitted), *trans. denied*. In light of the foregoing, we cannot say that the trial court clearly erred in concluding that a reasonable probability exists that conditions resulting in the removal of Mother's children would not be remedied. We therefore affirm.

Affirmed.

DARDEN, J., and MAY, J., concur.